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Forty-sixth session

UNITED NATIONS ADMINISTRATIVE TRIBUNAL

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, for their information, the attached note from the United Nations Administrative Tribunal to the President of the General Assembly.

ANNEX

Annual note by the United Nations Administrative Tribunal

1. At its third plenary session, held in Paris on 20 December 1951, the Administrative Tribunal decided to submit a note each year to the President of the General Assembly. In accordance with this decision, the following note is submitted in respect of the year 1991.

I. APPOINTMENT OF MEMBERS OF THE TRIBUNAL BY THE GENERAL ASSEMBLY

2. At its 72nd plenary meeting, on 21 December 1990, the General Assembly, on the recommendation of the Fifth Committee (see A/45/864), appointed Mr. Ioan Voicu and Mr. Luis de Posadas Montero as members of the United Nations Administrative Tribunal for a three-year term of office beginning on 1 January 1991.

II. COMPOSITION OF THE TRIBUNAL DURING 1991

3. In 1991, the Tribunal was composed of the following members:

Mr. Roger Pinto, President
Mr. Jerome Ackerman, First Vice-President
Mr. Ahmed Osman, Second Vice-President
Mr. Samar Sen
Mr. Arnold Kean
Mr. Ioan Voicu
Mr. Luis de Posadas Montero

III. FORTY-SECOND PLENARY SESSION

4. The Tribunal met in annual plenary session in New York on 15 November 1991, pursuant to article 5, paragraph 1, of its rules. All members were present.

IV. JUDGEMENTS DELIVERED DURING 1991

5. In 1991, the Tribunal held three panel sessions, two in New York from 18 February to 1 March and from 14 October to 15 November, and one in Geneva from 6 to 31 May. The composition of the panels and the corresponding judgements rendered are as follows:

Case No. 372: Noble

(Noble against the Secretary-General of the United Nations)

(Request for revision and/or interpretation of Judgement No. 407)

Judgement AT/DEC/503

New York, 12 to 25 February 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Voicu

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Case No. 484: Stein

(Stein against the United Nations Joint Staff Pension Board (UNJSPB))

(Claim by FAO staff member for rescission of the decision by the Standing Committee of the UNJSPB concerning the rate of accumulation applied to the Applicant's contributory service following his re-entry into the Pension Fund on 3 June 1984)

Judgement AT/DEC/524

New York, 13 to 30 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Voicu

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Case No. 485: Kioko

(Kioko against the Secretary-General of the United Nations)

(Claim by former UNEP staff member, in whose favour the Administrative Tribunal rendered Judgement No. 456 on 2 November 1989, that the Respondent has not implemented Judgement No. 456 in accordance with the terms set forth in paragraph XVI of the Judgement)

Judgement AT/DEC/532

New York, 21 to 24 October 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 486: Maneck

(Maneck against the United Nations Joint Staff Pension Board (UNJSPB))

(Claim by participant in the Pension Fund for rescission of decision by the Standing Committee of the UNJSPB upholding a decision by the Secretary of the UNJSPB to maintain the initial amount of the Applicant's benefit on the Austrian local currency track, determined in accordance with the pension adjustment system in force at the time of the Applicant's separation from service)

Judgement AT/DEC/514

New York, 17 to 23 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Voicu

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Case No. 502: Rossman
Case No. 503: Sabbarese

(Rossman and Sabbarese against the Secretary-General of the United Nations)

(Claims by United Nations and by former United Nations General Service staff members that they had an acquired right to promotion to the Professional category and to exemption from the competitive examination mandated by General Assembly resolution 33/143)

Judgement AT/DEC/534

New York, 15 to 29 October 1991

Mr. Pinto, President
Mr. Osman
Mr. Voicu

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Case No. 514: Giscombe

(Giscombe against the Secretary-General of the United Nations)

(Claim by former United Nations staff member that he should be compensated under article 11.2 (d) (loss of earning capacity) and not under article 11.3 (permanent loss of physical function) of Appendix D to the Staff Rules)

Judgement AT/DEC/502

New York, 19 October to
7 November 1990

New York, 15 to 22 February 1991

Mr. Ackerman, presiding
Mr. Sen
Mr. Voicu

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Case No. 525: Hamadeh-Banerjee
Case No. 526: Hamadeh-Banerjee

(Hamadeh-Banerjee against the Secretary-General of the United Nations)

(Claim by UNDP staff member who was medically evacuated to Riyadh to give birth to a child, but who actually gave birth in New York, that she is entitled to daily subsistence allowance at 100 per cent of the rate applicable in Riyadh for her stay in New York; claim that the child's travel should be authorized from New York to Kabul; claim that the Applicant's country of home leave travel should be changed to Geneva, Switzerland)

Judgement AT/DEC/509

New York, 19 to 28 February 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Kean

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Case No. 527: Hossain

(Hossain against the Secretary-General of the United Nations)

(Claim for compensation and/or reinstatement by former UNDP General Service staff member alleging that the decision not to extend his fixed-term appointment was motivated by prejudice; request that the case be remanded for correction of procedure pursuant to article 9, paragraph 2 of the Statute of the Administrative Tribunal)

Judgement AT/DEC/528

Geneva, 16 to 27 May 1991

New York, 14 to 17 October 1991

Mr. Pinto, President
Mr. Osman
Mr. Sen

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Case No. 530: Petruc

(Petruc against the United Nations Joint Staff Pension Board)

(Claim by participant in the Pension Fund that he is entitled to a disability benefit in accordance with article 33 of the Pension Fund Regulations)

Judgement AT/DEC/522

Geneva, 13 to 30 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Sen

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Case No. 531: Fayache

(Fayache against the Secretary-General of the United Nations)

(Claim by United Nations staff member that he should have been promoted to the D-1 level in connection with the 1986 promotion review exercise; claim that he has been discriminated against by the head of the Department on account of his country of origin)

Judgement AT/DEC/507

New York, 11 October to
2 November 1990

New York, 19 to 27 February 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 532: Fallah

(Fallah against the Secretary-General of the United Nations)

(Claim for compensation and/or specific performance by United Nations General Service staff member who successfully passed the examination for Editorial Assistant in January 1981. Claim that she had an acquired right to a special post allowance to the G-5 level during a 24-month probationary assignment to a G-5 post. Claim that she should be placed in an Editorial Assistant post at the G-7 level, retroactive from 1 January 1985, with appropriate compensation)

Judgement AT/DEC/545

New York, 16 October to
12 November 1991

Mr. Ackerman, presiding
Mr. Sen
Mr. de Posadas Montero

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Case No. 533: Kofi

(Kofi against the Secretary-General of the United Nations)

(Claim for compensation by former United Nations staff member whose fixed-term appointment had not been extended)

Judgement AT/DEC/519

Geneva, 8 to 29 May 1991

Mr. Ackerman, presiding
Mr. Kean
Mr. Voicu

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Case No. 534: Parker

(Parker against the Secretary-General of the United Nations)

(Claim by United Nations staff member for compensation on the ground that, in reorganizing the Department of Public Information, the selection process of candidates for posts was flawed, resulting in injury to him)

Judgement AT/DEC/511

New York, 12 February to
1 March 1991

Mr. Ackerman, presiding
Mr. Sen
Mr. de Posadas Montero

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Case No. 535: Bhandari

(Bhandari against the Secretary-General of the United Nations)

(Claim by United Nations staff member for correction of her entry level from P-2 to P-3)

Judgement AT/DEC/506

New York, 11 to 26 February 1991

Mr. Ackerman, presiding
Mr. Voicu
Mr. de Posadas Montero

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Case No. 537: Rosetti

(Rosetti against the Secretary-General of the United Nations)

(Claim by United Nations General Service staff member that she should not be obliged to relinquish her international status upon assignment and promotion to a new General Service post)

Judgement AT/DEC/508

New York, 13 to 27 February 1991

Mr. Pinto, President
Mr. Osman
Mr. de Posadas Montero

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Case No. 538: Barabas

(Barabas against the Secretary-General of the United Nations)

(Claim by United Nations staff member for compensation on the ground that, in reorganizing the Department of Public Information, the selection process of candidates for posts was flawed, resulting in injury to him)

Judgement AT/DEC/513

Geneva, 15 to 22 May 1991

Mr. Ackerman, presiding
Mr. Sen
Mr. de Posadas Montero

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Case No. 539: Daw Than Tin

(Daw Than Tin against the Secretary-General of the United Nations)

(Claim by widow of former United Nations staff member for compensation on account of her husband's death and inappropriate handling of the case by the Administration)

Judgement AT/DEC/505

New York, 14 to 26 February 1991

Mr. Pinto, President
Mr. Osman
Mr. Kean

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Case No. 540: Coulibaly

(Coulibaly against the Secretary-General of the United Nations)

(Claim by former UNDP staff member for payment of additional salary and emoluments)

Judgement AT/DEC/504

New York, 14 to 26 February 1991

Mr. Osman, presiding
Mr. Sen
Mr. Voicu

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Case No. 542: Korb

(Korb against the Secretary-General of the United Nations)

(Claim for reinstatement and/or compensation by former United Nations staff member on the ground that the decision by the Secretary-General not to extend her fixed-term appointment was based on discriminatory, prejudiced and ill-founded assessments of her performance)

Judgement AT/DEC/512

New York, 15 February to
1 March 1991

Mr. Osman, presiding
Mr. Kean
Mr. de Posadas Montero

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Case No. 546: Upadhya

(Upadhya against the Secretary-General of the United Nations)

(Claim by United Nations staff member, in whose favour the Tribunal rendered Judgement No. 401 on 12 November 1987, for compensation and/or specific performance on account of his non-promotion to the D-1 level. Claim that the Respondent has continued to hinder the development of the Applicant's career and should be ordered to find a suitable D-1 post for the Applicant. Claim that the Applicant was deprived of the right to be selected by an independent body established after consultations with the appropriate staff representative body. Challenge to the Vacancy Management System of promotion)

Judgement AT/DEC/537

New York, 15 October to
1 November 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 547: Camara

(Camara against the Secretary-General of the United Nations)

(Claim for reinstatement by former UNDP staff member dismissed for misconduct)

Judgement AT/DEC/510

New York, 12 to 28 February 1991

Mr. Pinto, President
Mr. Osman
Mr. de Posadas Montero

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Case No. 550: Labben

(Labben against the United Nations Joint Staff Pension Board)

(Claim by participant in the Pension Fund that he is entitled to a disability benefit in accordance with article 33 of the Pension Fund Regulations)

Judgement AT/DEC/523

Geneva, 13 to 30 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Sen

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Case No. 551: Van Branteghem

(Van Branteghem against the Secretary-General of the United Nations)

(Claim for compensation by former UNDP staff member in whose favour the Tribunal rendered Judgement No. 439. Claim that the Judgement has not been properly implemented by the Respondent)

Judgement AT/DEC/517

Geneva, 15 to 29 May 1991

Mr. Osman, presiding
Mr. Kean
Mr. Voicu

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Case No. 553: Lukas

(Lukas against the Secretary-General of the United Nations)

(Claim for compensation and/or specific performance by United Nations staff member who was not selected by her Department (DPI) for a P-4 post in the course of the Department's reorganization. Claim that her candidacy for the P-4 post did not receive fair and full consideration, that her non-selection from a short list of qualified candidates was due to extraneous factors and that, in failing to select and promote her to a P-4 post, the Respondent violated his own rules)

Judgement AT/DEC/544

New York, 16 October to 8 November 1991

Mr. Ackerman, presiding
Mr. Kean
Mr. de Posadas Montero

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Case No. 554: Brewster

(Brewster against the Secretary-General of the United Nations)

(Claim by UNCTAD staff member for compensation on the ground that the Respondent, in assigning him from one UNCTAD post to another at an equivalent level, violated his rights)

Judgement AT/DEC/518

Geneva, 6 to 29 May 1991

Mr. Osman, presiding
Mr. Kean
Mr. Voicu

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Case No. 555: Khan

(Khan against the Secretary-General of the United Nations)

(Claim for compensation and/or reinstatement by former UNICEF staff member. Claim for rescission of the decision by the Secretary-General to dismiss the Applicant for misconduct)

Judgement AT/DEC/515

Geneva, 14 to 27 May 1991

Mr. Pinto, President
Mr. Osman
Mr. Kean

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Case No. 556: Bentaleb

(Bentaleb against the Secretary-General of the United Nations)

(Claim by United Nations staff member for compensation and specific performance on the ground that his name should have been included in the 1986 Senior Officer (P-5) Promotion Register; claim that he should have been promoted to the P-5 level)

Judgement AT/DEC/539

New York, 22 October to
4 November 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 557: Satite
Case No. 564: Williams

(Satite and Williams against the Secretary-General of the International Maritime Organisation (IMO))

(Claim by former General Service IMO staff members that the method by which their grade and step were calculated on their promotion to the Professional category was not in conformity with the Staff Regulations and Rules of IMO)

Judgement AT/DEC/516

Geneva, 8 to 28 May 1991

Mr. Ackerman, presiding
Mr. Osman
Mr. de Posadas Montero

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Case No. 558: Dey

(Dey against the Secretary-General of the United Nations)

(Claim for reinstatement and/or compensation by United Nations General Service staff member dismissed for misconduct)

Judgement AT/DEC/529

New York, 14 to 21 October 1991

Mr. Pinto, President
Mr. Osman
Mr. de Posadas Montero

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Case No. 559: Yougbare

(Yougbare against the Secretary-General of the United Nations)

(Claim by former UNDP General Service staff member for rescission of decision by Secretary-General to dismiss him for misconduct)

Judgement AT/DEC/525

Geneva, 7 to 31 May 1991

Mr. Pinto, President
Mr. Osman
Mr. de Posadas Montero

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Case No. 560: Pennachi

(Pennacchi against the Secretary-General of the United Nations)

(Claim by UNICEF General Service staff member for rescission of decision by the Respondent to suspend her without pay for one month)

Judgement AT/DEC/542

New York, 16 October to
7 November 1991

Mr. Osman, presiding
Mr. Voicu
Mr. de Posadas Montero

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Case No. 561: Hallin

(Hallin against the United Nations Joint Staff Pension Board)

(Claim by participant in the Pension Fund that he is entitled to a disability benefit in accordance with article 33 of the Pension Fund Regulations)

Judgement AT/DEC/531

Geneva, 13 to 27 May 1991

New York, 22 and 23 October 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Sen

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Case No. 562: Ibarria

(Ibarria against the Secretary-General of the United Nations)

(Claim for compensation and/or specific performance by United Nations staff member alleging that the New York General Service Classification Appeals and Review Committee improperly classified his post; claim that his post should be classifed at the G-7 level under the new seven-level grade structure, retroactive from 1 January 1985)

Judgement AT/DEC/541

New York, 17 October to
7 November 1991

Mr. Ackerman, presiding
Mr. Kean
Mr. de Posadas Montero

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Case No. 563: Desta

(Desta against the Secretary-General of the United Nations)

(Claim for compensation by United Nations staff member on the ground that he had a right to be promoted to the P-3 level retroactive to January 1985)

Judgement AT/DEC/520

Geneva, 10 to 29 May 1991

Mr. Ackerman, presiding
Mr. Osman
Mr. de Posadas Montero

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Case No. 565: Salinas

(Salinas against the Secretary-General of the United Nations)

(Claim for compensation and/or reinstatement by former United Nations General Service staff member whose appointment was terminated)

Judgement AT/DEC/530

New York, 17 to 23 October 1991

Mr. Pinto, President
Mr. Osman
Mr. Kean

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Case No. 566: Al-Atraqchi

(Al-Atraqchi against the Secretary-General of the United Nations)

(Claim by United Nations staff member that his candidacy to a D-1 post did not receive the fullest consideration and that, since the Secretary-General failed to suspend Staff Rule 104.14 concerning appointment and promotion procedures, the Vacancy Management System of promotion is illegal)

Judgement AT/DEC/538

New York, 15 October to
1 November 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 567: Araim

(Araim against the Secretary-General of the United Nations)

(Claim by United Nations staff member for rescission of decision to fill D-1 post under the replacement procedure established in General Assembly resolution 35/210. Claim that the decision to exclude the Applicant from consideration because of his nationality violates Article 101, paragraph 3, of the Charter)

Judgement AT/DEC/533

New York, 22 to 28 October 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Kean

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Case No. 568: Mateu

(Mateu against the Secretary-General of the United Nations)

(Claim by General Service staff member of the United Nations Office at Geneva that he is entitled to reimbursement of a levy imposed by the Canton of Geneva for education costs, even though his son was, at the time of his claim, over 21 years of age and was no longer his dependent under the Staff Rules)

Judgement AT/DEC/543

New York, 14 October to
7 November 1991

Mr. Pinto, President
Mr. Osman
Mr. Voicu

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Case No. 569: Dewey

(Dewey against the Secretary-General of the United Nations)

(Claim for compensation and/or reinstatement by former UNHCR staff member on the ground that the extension of his appointment by the former High Commissioner was legitimate and that the revocation of the decision by the Secretary-General was an unwarranted and arbitrary violation of his terms of appointment)

Judgement AT/DEC/526

New York, 7 to 31 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 570: Saeed

(Saeed against the Secretary-General of the United Nations)

(Claim for compensation by former UNICEF General Service staff member alleging that his fixed-term appointment should have been extended and that the decision not to extend it was tainted by prejudice or improper motive)

Judgement AT/DEC/521

Geneva, 14 to 29 May 1991

Mr. Osman, presiding
Mr. Kean
Mr. de Posadas Montero

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Case No. 572: Isaacs

(Isaacs against the Secretary-General of the United Nations)

(Claim by former United Nations staff member who had been employed by UNITAR under a series of letters of award and in whose favour the Tribunal rendered Judgement No. 423 on 26 October 1988. Claim that she is entitled to participate in the subsidized after-service health insurance scheme provided by the United Nations, even though she did not participate for the required number of years in the group plan prior to her retirement)

Judgement AT/DEC/540

New York, 15 October to
5 November 1991

Mr. Pinto, President
Mr. Osman
Mr. Voicu

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Case No. 582: Han

(Han against the Secretary-General of the United Nations)

(Claim for reinstatement by a former United Nations staff member (a Chinese national) who was in the same contractual situation as the Applicants in Judgement No. 482; claim that his application should be receivable notwithstanding the fact that he did not lodge his appeal within the time-limits)

Judgement AT/DEC/527

Geneva, 10 to 31 May 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 588: Christy
Case No. 589: Thorstensen
Case No. 590: White

(Christy, Thorstensen and White against the United Nations Joint Staff Pension Board)

(Claim by participants in the Pension Fund that, in the application by the Fund of the new methodology for the adjustment of pensionable remuneration introduced by the General Assembly, there was a retroactive reduction of their pensionable remuneration)

Judgement AT/DEC/546

New York, 24 October to
14 November 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Kean

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Case No. 601: Shatilova

(Shatilova against the Secretary General of the International Civil Aviation Organization (ICAO))

(Claim by former ICAO staff member of Soviet nationality that she had a right to extension of her fixed-term appointment and that, in not extending it, the Secretary-General violated the Chicago Convention and the Charter)

Judgement AT/DEC/535

New York, 21 to 29 October 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Case No. 605: Kravchenko

(Kravchenko against the Secretary-General of the International Civil Aviation Organization (ICAO))

(Claim by former ICAO staff member of Soviet nationality that he had a right to extension of his fixed-term appointment and that, in not extending it, the Secretary General violated the Chicago Convention and the Charter)

Judgement AT/DEC/536

New York, 21 to 29 October 1991

Mr. Pinto, President
Mr. Ackerman
Mr. Osman

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Copies of the judgements are available at Documents Distribution.

V. SESSIONS SCHEDULED FOR 1992

6. Taking into consideration the number of cases already submitted to it, the Tribunal decided that the first ordinary session, referred to in article 6, paragraph 2, of its rules, would be held at the United Nations Office at Geneva beginning on 1 June 1992, and that its second session would be held at Headquarters during the last quarter of 1992, pursuant to articles 5.1 and 6.2 of its rules.

7. The Tribunal must reiterate even more strongly than in previous notes its concern at the mounting volume of litigation, which has already caused the Tribunal to meet for longer periods than in the past and which required that the Tribunal meet three times during 1991 because of the limited number of cases that the Tribunal can consider at a single session.

8. The Tribunal has asked the Secretary-General for two additional posts: one Professional post at the P-3 level is required for an Assistant Secretary of the Tribunal and one General Service post is needed to complete the computerized index of decisions and to help in avoiding a backlog. While the Secretary-General has provided those posts to the Tribunal on a temporary basis during 1991, the Tribunal expresses the hope that these posts will now be provided on a permanent basis.